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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re J.F., a Person Coming Under the
Juvenile Court Law.

B258294
(Los Angeles County
Super. Ct. No. CK87457)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

J.F. et al.,

Objectors and Respondents.

APPEAL from an order of the Superior Court of the County of Los Angeles,
Connie R. Quinones, Judge. Affirmed.

Roni Keller, under appointment by the Court of Appeal, for Appellant Minor.

Law Office of Marissa Coffey, under appointment by the Court of Appeal, for
Objector and Respondent N.D.

Mark J. Saladino, County Counsel, Dawyn R. Harrison, Assistant County Counsel,
Starr Coleman, Deputy County Counsel for Plaintiff and Respondent.

INTRODUCTION

J.F. (a minor child) appeals from the juvenile court's order entered at the last contested Welfare and Institutions Code section 364¹ hearing at which the juvenile court terminated jurisdiction. J.F. contends that there is not substantial evidence to support the juvenile court's order. Plaintiff and respondent Department of Family and Children's Services (Department) and respondent N.D. (mother) oppose J.F.'s contention on appeal. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

A. The Prior Appeal²

In early March 2011, mother, a 16-year-old dependent of the court, reportedly wanted to hurt herself and others. There was information she had been subjected to sexual abuse as a child by her stepfather and, as a result, had homicidal ideations. She acknowledged a history of using marijuana. She was then hospitalized. J.F.'s paternal grandmother³ was caring for him during mother's hospitalization. J.F. was healthy and showed no signs of abuse or neglect.

Upon release from the hospital, mother lived with paternal grandmother and J.F., and, according to a children's social worker, J.F. was doing well in mother's care. A Department report reflected that mother met her therapy and medication requirements. According to a psychiatrist with the State Department of Mental Health, mother was involved in J.F.'s life, had a positive outlook, and wanted to return to school to complete

¹ All statutory references are to the Welfare and Institutions Code, unless otherwise indicated.

² The following statement of facts in this section consists of the facts set forth in our opinion in an earlier appeal in this case. (*In re J.F.* (2014) 228 Cal.App.4th 202)

³ "Sometimes confusingly referred to in the record as 'paternal great grandmother,' 'maternal grandmother,' and 'maternal great grandmother.'"

her education. J.F.'s father did not live with mother and J.F. In March and April of 2011, father's whereabouts were unknown. He was incarcerated in May of 2011. Later, it was reported he had no place of residence. He was accorded monitored visits with J.F. On April 22, 2011, the Department filed a so-called "not detained" petition on behalf of 17-month-old J.F. pursuant to section 300, subdivisions (b) and (g). Father was found to be J.F.'s presumed father. Over J.F.'s counsel's objection, the juvenile court did not detain J.F. from mother's custody. Mother's contact with J.F. was, however, monitored. J.F. was not to be left alone with mother and was to sleep at the residence of "maternal great grandmother."

On May 25, 2011, at a jurisdictional hearing, the juvenile court sustained an amended count b-1, finding true that mother had mental and emotional problems, including depression, auditory hallucinations, and suicidal and homicidal ideations in the past. She was psychiatrically hospitalized in March 2011. Allegations pertaining to father were not acted upon. Counsel for J.F. filed a section 388 petition on May 25, 2011, seeking an order detaining J.F. from mother's care. In response to the section 388 petition, the Department reported it was in J.F.'s best interest to remain in mother's custody. Mother and J.F. were moved to the foster home of L.M.

L.M. reported positively on mother's treatment of J.F., and mother continued to comply with her therapy and medication requirements. On one occasion, it was noted that mother was not taking all her pills, believing she did not need them, but was then advised to keep taking them.

On July 6, 2011, the juvenile court dismissed counts b-1 and g-1 as to father. The juvenile court made dispositional findings declaring J.F. a dependent and ordering that he remain "home-of-parent mother." Mother was ordered to participate in parenting teen services, participate in counseling to address her history of being sexually abused, and take three random drug tests. The juvenile court denied J.F.'s section 388 petition, finding the requested change of order concerning the role of "maternal great grandmother" not to be in J.F.'s best interests.

On February 1, 2012, the juvenile court conducted a hearing pursuant to section 364 and found that the conditions justifying the initial assumption of jurisdiction were likely to exist if supervision was withdrawn. On August 1, 2012, at a section 364 hearing, J.F.'s counsel urged the juvenile court to maintain supervision for another six months, notwithstanding the Department recommendation to terminate jurisdiction. The juvenile court continued jurisdiction.

During 2012, mother continued to participate in counseling and parenting classes and she tested negative for drugs. A therapist wrote that mother "has made minimal progress in treatment due to difficulty remembering information about therapeutic interventions and parenting skills. I have difficulty recognizing if [mother] has difficulty comprehending interventions due to cognitive delay, or if her difficulties are related to her extensive trauma history."

Also during 2012, mother and J.F. were placed in Mary's Shelter, apparently because of paternal grandmother's lack of cooperation with the Department. In April 2012, mother turned 18 years old "but remain[ed] under the supervision of [the Department] and Children's court and in out of home care under her mother's Dependency case." Mother was issued a "Learning Experience" referral from her group home for leaving J.F. unattended in a bathtub while she retrieved a bath-related item. Under supervision, no such further incidents occurred.

In August 2012, the Department recommended that the juvenile court terminate jurisdiction as no safety concerns were identified and mother "ha[d] made improvement with all her parenting goals." Mother was to undergo surgery for a cleft palate, continue to work towards a high school diploma, and continue to participate in individual counseling. Mother no longer experienced thoughts of trauma, continued to meet with her parenting instructor, improved on meeting parenting goals (although they were referred to as "a work in progress"), and her therapy sessions were going well.

In December 2012, the juvenile court terminated paternal grandmother's reunification services and ordered mother into a planned permanent living arrangement. The January 30, 2013, Department report reflected that mother remained a dependent of

the court. Mother continued to do well medically, educationally, and in supervising J.F. The Department recommended that jurisdiction be terminated as there were no immediate safety concerns.

A March 13, 2013, Department report reflected that mother read to J.F. and praised him, but she talked to others when she needed to attend to J.F., and she cursed in front of J.F. There were other issues reported as to mother's parenting.

In February 2013, a peer reported that in November 2012, she witnessed mother kick J.F. and, at some time, hit J.F. in the head with a remote control device. A social worker found the allegations inconclusive. Mother vigorously denied the allegations. At a March 2013 section 364 hearing set by J.F.'s counsel after the Department's recommendation to terminate jurisdiction, counsel for J.F. again requested the juvenile court not to terminate jurisdiction, and the juvenile court retained jurisdiction.

On August 3, 2013, the Department again recommended a termination of juvenile court jurisdiction with mother having sole custody of J.F. On September 18, 2013, the Department reported that mother was still in Mary's Shelter; she underwent outpatient surgery; she would graduate from high school in June of 2014; she continued to participate in parenting classes; her communication with J.F. had improved slightly, although she sometimes spoke harshly to J.F.; she "continued to struggle with her supervision of J.F."; she had difficulty in providing meals for J.F.; and she lacked consistency in dealing with J.F.'s sleep, nap times, and toilet training. A counselor reported that mother had been consistent with her treatment; had made substantial progress; and would benefit from continued treatment. It was also reported that there was no significant reason to prescribe any medications for mother at that time. The Department counselor concluded "that the risk level in regard to this case is Moderate. . . . [Mother] will remain under [the Department] and Dependency Court supervision as a non minor dependency via AB 12 [(which provides for those eligible to remain in foster care after turning 18 years old)]. (§ 303, subds. (a), (b))"

On November 12, 2013, at the section 364 hearing set by J.F.'s counsel after the Department recommended a termination of jurisdiction, J.F.'s counsel again requested

the juvenile court not to terminate jurisdiction. The juvenile court continued jurisdiction. The juvenile court found that while mother's past mental health issues were no longer a continued risk to J.F., she continued to "struggle a bit" with providing J.F. everything he needed. The juvenile court explained: "The reality is this: As I sit here, day in and day out, more and more and more cases that seem to return to these systems are from young people who have babies that were once in the system themselves. And what happens when that comes in is that those children are removed. [¶] And the court is seriously concerned that, without the protections in place, that that could happen to [mother]. And I would not want to see [J.F.] removed from her. And I do believe that court jurisdiction is necessary to keep those services in place, to keep [J.F.] with [mother], and to keep him appropriately supervised and protected. . . . I believe that terminating jurisdiction at this time is, No. 1, risky for [J.F.]; and, No. 2, I think it's risky for [mother] because I think, without the proper supervision and services in place, [mother] could lose [J.F.] and that is risky for her as well." The juvenile court concluded, "So in trying to balance everyone's needs and what will keep [J.F.] safe and [mother] with her son, which is what I know she wants, the Court is maintaining jurisdiction."

Mother filed a timely notice of appeal on November 12, 2013. In that prior appeal, we affirmed the juvenile court's order maintaining jurisdiction, finding, *inter alia*, substantial evidence to support it. (*In re J.F.*, *supra*, 228 Cal.App.4th at pp. 212-213)

B. Events That Occurred After the Prior Appeal

On May 12, 2014, the Department reported that J.F. remained placed in the home of mother, and mother remained under the supervision of the Department and the dependency court as a non-minor dependant. Mother's placement in a group home for pregnant and parenting youths, Mary's Shelter, remained stable. She had applied for transitional housing and participated in "independent living-type activities offsite." She continued to participate in weekly parenting classes and met individually with her parenting coordinator, who reported mother had "shown improvements in her parenting,"

“submitted all of her parenting assignments, and . . . ha[d] been more receptive in her communication with [her parenting coordinator].”

The Department’s May 12, 2014, report stated that mother remained “eligible for special education services under the criteria of a Special Learning Disability and secondary disabilities such as Speech and Language Impairment and Emotional Disturbance.” According to the report, mother continued to participate in individual counseling, and her therapist reported that mother was doing well, participated in therapy weekly, was taking her medication as prescribed, and her behavior in placement appears to have improved. The therapist further stated, “I have had the opportunity to observe [mother] with [J.F.] because she brings him to the sessions at times. Her interaction is appropriate. I have no concerns at this time.”

The Department reported that mother had been prescribed psychotropic medication by a psychiatrist at the same agency where she met with a therapist. Mother attended a follow-up appointment and at that time had another follow-up appointment scheduled.

Mother, 20 years old at the time of the Department’s May 12, 2014, report, “chose to remain under the supervision of [the Department] and Dependency court” as a non-minor dependant. Mother was close to obtaining her high school diploma, and planned to continue her education by attending college or a vocational school in order to become self-sufficient and be able to provide for herself and J.F. The report stated that a children’s social worker “determined that the risk level in regard to this case is Moderate.”

The Department’s May 12, 2014, report included a parenting program report from mother’s group home, dated February 5, 2014. According to that report, mother “struggled with bedtime for [J.F.] again this quarter. . . . This writer and other staff members have reminded [mother] how important it is for [J.F.] to get substantial sleep now that he is in preschool. [Mother] appears to understand the importance, but it seems the socializing often gets in the way. [¶] . . . [¶] [Mother] showed improvements in her

supervision this quarter. She did struggle with it at certain times, but overall it seemed as though she put forth more effort in this area.”

The Department’s report also referenced an incident that occurred on November 10, 2013,⁴ in which mother allowed J.F. to use the bathroom by himself, resulting in J.F. accessing and spraying Windex. A staff member discussed the incident with mother, who understood that although J.F. knew how to use the bathroom by himself, he still needed to be supervised.

The report noted that mealtimes had improved slightly for mother and J.F. Further, the report stated that mother “ha[d] been better at managing her frustrations this quarter. She knows to request help from staff if she is starting to feel herself escalate. She has not had any incidents involving [J.F.] in which she has not managed her frustrations this quarter.” The report also discussed mother talking appropriately to J.F., reading to him, and addressing both his fine and gross motor skills. The report concluded that mother had shown improvements in her parenting, and the Department recommended terminating juvenile court jurisdiction.

On July 7, 2014, the Department reported that mother had been accepted into a transitional housing program with Aspiranet that will be able to accommodate her and JF. The report stated, “This placement option will provide [mother] with the opportunity to remain under the supervision of [the Department] and Dependency court as a Non Minor Dependent . . . until the maximum age permitted which is 21 years old if she chooses. [¶] Thereafter, [mother] can choose to transition into Aspiranet’s Transitional Care Program (THP+) where she remains eligible until the age of 24. It appears that post housing opportunities are available to THP+ participants thereafter as well.”

According to the report mother “ha[d] remained consistent in regard to her participation in her Court ordered treatment programs and although the parenting and mental health concerns that brought her to the attention of [the Department] and [the juvenile] court remain[ed] a work in progress[,] they also continue to remain

⁴ That incident occurred two days before the juvenile court’s November 12, 2013, order retaining jurisdiction.

stable. [¶] Although [mother] was initially resistant to placement in a setting that she perceived as restrictive she adjusted well to the structure and opportunities at Mary's Shelter and appeared to realize that they were and continue to be in her and [J.F.'s] best interest. Specifically, both [mother] and [J.F.] have made and continue to make strides in terms of their development." The Department, based on its assessment, recommended that the juvenile court terminate its jurisdiction over this matter.

The Department's July 7, 2014, report included a parenting program report from mother's group home, dated May 8, 2014, that stated details of an incident of general neglect on February 9, 2014. The Department reported in its May 12, 2014, report that the allegations concerning that incident were determined to be unfounded. The parenting program report also stated that on February 8, 2014, J.F. was found with another toddler outside playing and playing in mother's room unsupervised, and on March 1, 2014, J.F. was in the kitchen while mother was in the bathroom. On multiple occasions, J.F. told mother that he was hungry, but mother did not feed him.

The report further stated that mother seemed to improve at putting her cell phone away at mealtimes, was good at giving J.F. crayons and paper for his fine motor development, enjoyed teaching J.F. things, showed him books and asked him questions about the stories, played ball with him, took him to the park, and made sure he wore a helmet as she helped him ride his two-wheeler bike. Mother also encouraged J.F. to talk by giving him undivided attention. Although she was inconsistent at spending quality time with J.F., there were times she was great at doing so. J.F. enjoyed the times he had with mother.

During the July 7, 2014, contested section 364 hearing, J.F.'s counsel requested the juvenile court to continue supervision of J.F. J.F.'s counsel argued that the juvenile court should supervise mother's transition into the transitional housing program to see whether the mother was capable of taking good care of J.F. on her own without "24-7" supervision. J.F.'s counsel also argued that there were incidences of the mother not properly caring for J.F. J.F.'s counsel stated that mother had "made a lot of progress," but her concern was in "keeping [J.F.] safe." J.F.'s counsel acknowledged that "it is hard

to watch a 3- or 4- year old all the time.” J.F.’s counsel also stated that although mother was “doing the best she can,” that “is not enough to close this case.”

Mother’s counsel stated that mother had moved into the transitional housing program, and had graduated from high school. The Department’s counsel recommended that the juvenile court terminate jurisdiction “based on the progress [mother’s] made,” and mother’s counsel joined in the Department’s recommendation.

The juvenile court terminated jurisdiction, stating, “The court hardly doubts that the Department would typically recommend terminating jurisdiction of this little boy if they thought there was some risk. [¶] In fact, quite often they are not recommending jurisdiction be terminated because of some risk that still exists. Here there is a lot of speculation about what could happen, or what might happen, or what have you. [¶] This young lady had made great strides in bettering herself and in becoming a better parent for her four-year old son. And she is recognizing the difficulties of parenthood and there are a lot of things to be learned from—in accepting help from others. It looks like she was initially resistant to getting help and living in a very structured environment, but she has come around and realizes how helpful it is to her, as a mother, her as an individual, and she is using that and taking advantage of all the assistance she has been receiving at [Mary’s Shelter] and now that she is at . . . transitional housing. [¶] I think the risk is not as you stated, [J.F.’s counsel]. She is an active participant in her son’s life on a daily basis. Being that she is young, she is doing a great job with what—with how she came into the system three years ago. [¶] For that reason, the court is going to terminate jurisdiction. The court finds the conditions that justified the initial assumption of jurisdiction pursuant to 300 no longer exists. Supervision of this child is no longer necessary and jurisdiction of this court is terminated.” The juvenile court stayed termination of jurisdiction until July 14, 2014, pending receipt of a custody order.

On July 14, 2014, the custody orders were filed granting legal and physical custody to mother, and the juvenile court terminated jurisdiction. J.F. filed a timely notice of appeal from the order terminating jurisdiction.

DISCUSSION

1. *Standard of Review*

There appears to be a split of authority on the standard of review when reviewing orders terminating juvenile court jurisdiction. (Compare *In re Holly H.* (2002) 104 Cal.App.4th 1324, 1327 [abuse of discretion] and *In re Robert L.* (1998) 68 Cal.App.4th 789, 791 [abuse of discretion] with *In re N.S.* (2002) 97 Cal.App.4th 167, 172 [substantial evidence]. We recently said, “Orders made pursuant to section 364 are reviewed for substantial evidence. [Citations.] Under the substantial evidence standard of review, the appellate court does not reweigh the evidence, evaluate the credibility of witnesses, or draw inferences contrary to the findings of the trial court. [Citation.] The appellate court ‘accept[s] the evidence most favorable to the order as true and discard[s] the unfavorable evidence as not having sufficient verity to be accepted by the trier of fact.’ [Citation.] For evidence to be sufficient to support a trial court’s finding, it must be reasonable, credible, and of solid value. [Citation.]” (*In re J.F.*, *supra*, 228 Cal.App.4th at p. 209.) Under either standard, the juvenile court’s order is affirmed.

2. *Applicable Law*

“Under section 364, subdivision (c), the juvenile court shall determine whether continued supervision is necessary when a child not removed from the parent is receiving family maintenance services. The second sentence of section 364, subdivision (c) provides as follows: ‘The court shall terminate its jurisdiction unless the social worker or his or her department establishes by a preponderance of evidence that the conditions still exist which would justify initial assumption of jurisdiction under Section 300, or that those conditions are likely to exist if supervision is withdrawn.’ Under section 364, the juvenile court must determine whether ‘the conditions still exist which would justify initial assumption of jurisdiction under Section 300, or that those conditions are likely to exist if supervision is withdrawn.’ The language of section 364 does not literally require that the precise conditions for assuming jurisdiction under section 300 in the first place

must still exist—rather that conditions exist that ‘*would* justify initial assumption of jurisdiction.’ (Italics added.) [Citation omitted.]” (*In re J.F.*, *supra*, 228 Cal.App.4th at pp. 209-210.)

3. *Analysis*

There is substantial evidence that supports the juvenile court’s determination to terminate jurisdiction. About eight months had lapsed from the time the juvenile court continued jurisdiction (on November 12, 2013) to the time it terminated jurisdiction (on July 7, 2014). About two months before the juvenile court terminated jurisdiction, the Department reported that mother improved in her parenting skills and her supervision of J.F. Mother continued to participate in weekly parenting classes, met individually with her parenting coordinator, completed all of her parenting assignments, and improved in her parenting skills. There is evidence that mother continued to participate in individual counseling, was taking her medication as prescribed, had improved her behavior in placement, and interacted appropriately with J.F. Mother put forth more effort into her supervision of J.F. She interacted appropriately with J.F. and addressed the development of his fine and gross motor skills.

The Department stated in its July 7, 2014, report that mother had been accepted into a transitional housing program under which mother would be under the supervision of the Department and the “Dependency” court. The Department reported that both mother and J.F. continued to make strides in terms of their development. Mother was consistent in participating in her court ordered treatment programs, was improved in putting her cell phone away at mealtimes, interacted appropriately with J.F., enhanced his motor skills development, and helped ensure his safety. Mother also encouraged J.F. to talk by giving him undivided attention, and J.F. enjoyed the times he had with mother.

Mother had graduated from high school, and there is evidence that mother planned to continue her education by attending college or a vocational school in order to become self-sufficient and be able to provide for herself and J.F. Two days prior to the July 7, 2014, contested section 364 hearing, mother had moved into the transitional housing

program. This evidence is sufficient to support the juvenile court's termination of jurisdiction.

J.F. contends that the juvenile court terminated jurisdiction over this matter without proper exercise of its judicial duty because it stated, "The court hardly doubts that the Department would typically recommend terminating jurisdiction of this little boy if they thought there was some risk." The juvenile court, however, did exercise its judicial duty. Following the language referred to by J.F., the juvenile court continued by stating that mother "had made great strides in bettering herself and in becoming a better parent for her four-year old son;" "recognize[ed] the difficulties of parenthood and there are a lot of things to be learned . . . [and] accept[ed] help from others;" was "an active participant in [J.F.'s] life on a daily basis;" was "doing a great job with what—with how she came into the system three years ago;" and "[f]or that reason, the court is going to terminate jurisdiction." (Italics added.)

J.F. argues that "the facts cannot and should not be sorted through for only the facts that support the decision below." To the extent that J.F. asks us to reweigh the evidence, this we cannot do. (*In re J.F.*, *supra*, 228 Cal.App.4th at p. 209.) There are facts supporting J.F.'s position. But there is evidence that is "reasonable in nature, credible, and of solid value" (*ibid*) that is "substantial proof of the essentials that the law requires" in this case (*In re N.S.*, *supra*, 97 Cal.App.4th at p. 172) such that there is substantial evidence supporting the juvenile court's order.

J.F. argues that the juvenile court violated J.F.'s due process rights because the matter was decided by the Department in making its recommendation, and not by the juvenile court upon weighing all of the evidence and argument. We disagree.

As noted above, the juvenile court exercised its judicial duty and did not decide to terminate jurisdiction based on the Department's recommendation. In addition, the juvenile court held a contested hearing on July 7, 2014, at the request of J.F.'s counsel. J.F.'s counsel had the opportunity to call and cross-examine witnesses, but she chose not to do so. The juvenile court asked J.F.'s counsel whether she was presenting any exhibits or witnesses, and counsel stated she was not going to introduce any exhibits. Instead,

J.F.’s counsel requested the juvenile court take judicial notice of appeals concerning this case that were pending at that time. After addressing the issue of the pending appeals, J.F.’s counsel chose to argue the matter. The juvenile court did not violate J.F.’s due process rights.

In a single sentence, J.F. contends that, “At the very least, [the juvenile court erred by not granting] a continuance of the matter as requested by [J.F.] . . . to determine the level of supervision that [mother and J.F.] would be receiving in [mother’s] transitional housing program and to determine whether the mother was able to care for [J.F.] without risk [to him], without the supervision . . . afforded them at Mary’s Shelter” J.F. forfeited this contention “‘since it is not stated under a separate heading, is not sufficiently developed, and is unsupported by citation to authority. [Citations.]’ [Citation.]” (*In re J.S.* (2014) 228 Cal.App.4th 1483, 1497-1498.)

Even if J.F.’s contention was not forfeited, the juvenile court did not err in not continuing the hearing. J.F.’s counsel requested that the juvenile court “keep [the case] open 60 days, 90 days, [to] see how that transition goes” Dependency proceedings “are accelerate[d] proceedings so that the child is not kept ‘in limbo’ any longer than necessary. Continuances are expressly discouraged. [Citations.]” (*In re Emily L.* (1989) 212 Cal.App.3d 734, 743.) “Continuances are discouraged [citation] and we reverse an order denying a continuance only on a showing of an abuse of discretion [citation].” (*In re Ninfa S.* (1998) 62 Cal.App.4th 808, 811.) Because, as noted above, there was substantial evidence that supports the juvenile court’s determination to terminate jurisdiction, the juvenile court reasonably could conclude that a continuance of 60 to 90 days would cause an unreasonable delay. The juvenile court did not err.

DISPOSITION

The juvenile court's order is affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.

MOSK, Acting P. J.

We concur:

KRIEGLER, J.

GOODMAN, J.*

* Judge of the Superior Court of the County of Los Angeles, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.